

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND,
P 16-0109)	DECISION AND
Pryor Properties LLC)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on June 15, 2016, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is a conditional use permit application from Pryor Properties LLC (Steve and Deanna Pryor) 303, W Nelson Rd., Moses Lake WA, 98837. It is proposing the expansion of a pre-existing nonconforming use, Automotive Service and Repair, in the Rural Urban Reserve Zone. The applicant is proposing to construct a 10,000 square foot building that will be used as a truck accessory showroom and warehouse on a 3.10 acre parcel.
2. The applicant is Pryor Properties (Steve and Deanna Pryor), 303 W Nelson Rd., Moses Lake, WA 98837.
3. The proposed project area is located at 12976 North Frontage Rd E at the intersection of North Frontage Rd E and Rd M NE and is in the Northeast quarter of Section 31, Township 19 North, Range 29 East, Willamette Meridian, Grant County, WA. Parcel #18-0250-010.
4. The zoning for the subject property is Rural Urban Reserve.
5. The zoning for neighboring parcels is: To the north, Rural Urban Reserve; to the south, Rural Urban Reserve; to the east, Urban Heavy Industrial; and to the west, Rural Urban Reserve.
6. The Comprehensive Plan designation for the subject property is Urban Reserve (Rural)
7. SEPA Review was completed for this project and a Determination of Non-Significance was issued by Grant County on May 19, 2016.
8. This proposal was reviewed for compliance with GCC § 24.08 "Critical Areas and Cultural Resources." The subject parcel is not located in, nor does it contain, any Critical Areas as defined by Grant County Code.
9. A Public Notice containing information on this project was published in the Columbia Basin Herald on May 3, 2016, was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies of jurisdiction for their review and comment. The following agencies and County departments provided comments:

- 9.1 Grant County Fire Marshal responded on May 2, 2016
 - 9.2 Grant County Building Department responded on May 3, 2016
 - 9.3 Grant County Public Works Department responded on May 3, 2016
 - 9.4 Grant County Assessor's Office responded on May 3, 2016
 - 9.5 U.S. Bureau of Reclamation responded on May 19, 2016
 - 9.6 WA State Dept of Ecology responded on May 17, 2016
 - 9.7 East-Columbia Irrigation District responded on May 18, 2016
10. The following agencies were notified but did not respond:
- 10.1 Grant County Health District
 - 10.2 Grant County PUD
 - 10.3 Grant County Emergency Management
 - 10.4 Grant County Noxious Weed Control Board
 - 10.5 Grant County Treasurer's Office
 - 10.6 Grant County Sheriff's Office
 - 10.7 Grant County Auditor
 - 10.8 Grant County Fire District #5
 - 10.9 WA State Department of Transportation
11. The following is a summary of comments received:
- 11.1 **Grant County Fire Marshal:**
 - 11.1.1 All real development shall comply with all applicable local, state, and federal laws including but not limited to the establishment of water supply for fire suppression fire code requirements.
 - 11.2 **Grant County Building Department:**
 - 11.2.1 New structure subject to Building Permit and must comply with all Federal, State, and Local codes.
 - 11.3 **Grant County Assessor:**
 - 11.3.1 Parcel 180250010 is a 3.10 acre parcel with a commercial building that used to be or could still be a truck repair shop; owners are Pryor Properties LLC.
 - 11.4 **Grant County Public Works:**
 - 11.4.1 An approach permit shall be obtained for County Road access.
 - 11.5 **Grant County Health District:**
 - 11.5.1 Current septic system is for 6 employees. Septic system must be in compliance for the proposed use. If 25 or more people have access to the water, then it must have DOH approval as a Group A water system.

11.6 East-Columbia Basin Irrigation District:

- 11.6.1 This project will not affect any of our District facilities therefore we have no comments.

11.7 United States Bureau of Reclamation (Late Comment, Received 05/19/19):

- 11.7.1 Thank you for the opportunity to review and comment on the proposed project. The Bureau of Reclamation (Reclamation) currently has surface irrigation facilities (EL29 and EL29G laterals and Rocky Coulee Drain 6) that are in close proximity to the proposed project site located in Section 31 of Township 19 North, Range 29 East. These facility are distribution and return flow facility for irrigation water to the Project. The proponent should be aware of several matters that could impact Project objectives.

Storm water or non-agricultural runoff of any type must not be allowed to enter any of Reclamation's facilities without a Non-Agricultural Discharge Permit from Reclamation. However, construction storm water or runoff of any type from a construction site should not enter any of Reclamation's facilities at any time and must be contained on site. Surface water runoff resulting from construction activities can potentially enter Project facilities and adversely affect water quality. A General Construction Storm Water Permit from the Washington State Department of Ecology will be needed for any project one acre or greater. Construction should be conducted in a manner that minimizes adverse effects to the lands, operations, waters, facilities, and resources of the project.

Landowners should be aware of existing Reclamation and the District rights to construction, reconstruct, operate, and maintain Project facilities as necessary. Reclamation and the District must review and approve any work that will involve these facilities or the existing rights-of-way prior to commencing such work. Structures are prohibited from encroaching open existing rights-of-way corridors without Reclamation's and the District's prior approval. This includes, but is not limited to, temporary improvements such as on-site sewage disposal systems, drain fields, domestic wells, paving, fencing, and landscaping.

It is important to note that Reclamation's concurrence to this proposal is conditioned upon the assumption that there are no encroachments upon Project facilities or right- of way.

Should the proponent develop the property with the intent of installing a well for public or private use, please be advised that such a well providing groundwater to the public typically will need to have a well providing groundwater to the public typically will need to have a wellhead protection zone delineated on the development plans. Wellhead protection zones cannot overlap Reclamation Rights-of-Way or interfere with Project operations since they would constrain the District's ability to apply the aquatic and terrestrial herbicides needed to maintain Project facilities. The District must

be able to operate and maintain Project facilities in order to accomplish Project objectives.

If you have any questions, please contact Ms. Gina Hoff, Water Quality Specialist, at ghoff@usbr.gov or 509-754-0254.

11.8 State of Washington Department of Ecology:

- 11.8.1 Thank you for the opportunity to comment on the Notice of Application and anticipated Determination of Non Significance regarding the construction of a 10,000 square-foot building for a heavy-duty truck showroom, parts sales and warehouse areas (proponent: Pryor Properties, LLC). The Department of Ecology (Ecology) has reviewed the documents and submits the following comments:

Hazardous Waste and Toxics Reduction Program-Andrew Maher (509) 329-3612 Wastes produced during construction or remodeling can be dangerous wastes in Washington State. Some of these wastes include: Absorbent material, aerosol cans, asbestos-containing materials, lead-containing materials, PCB-containing lights ballasts, waste paint, waste paint thinner, sanding dust and treated wood.

The Common Construction and Demolition Wastes website has a more comprehensive list and a link to identifying and designating your wastes.

This can be found on line

at:http://www.ecy.wa.gov/programs/hwtr/dangermat/common_demo_wastes.html

Responsibility for construction waste generated at a facility is the responsibility of the facility that generates the waste. More information about who is responsible for properly managing construction debris can be found at:

http://www.ecy.wa.gov/programs/hwtr/dangermat/demo_responsibility.html

In order to adequately identify some of your construction and remodel debris, you may need to sample and test the wastes generated to determine whether they are dangerous waste. Information about how to sample and what to test for can be found at:

<http://www.ecy.wa.gov/programs/hwtr/dangermat/samplingDemoDebris.html>.

For more information and technical assistance, contact John Blunt at (509) 329-3525 or jblu461@ecy.wa.gov.

State Environmental Policy Act (SEPA)-Terri Costello (509) 329-3550

Ecology's comments are based upon information submitted for review. As such, they do not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action. If you have any questions or would like to respond to these comments, please contact the appropriate staff listed above.

12. The application was determined to be Technically Complete on April 28, 2016.
13. This proposal was processed as a Type III Quasi-Judicial Application, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
14. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. The project site was not found to be located within 300-ft of any Critical Areas.
15. The proposal is not within an Urban Growth Area (UGA).
16. The proposal site is zoned Rural Urban Reserve.
17. The Comprehensive Plan Designation is Urban Reserve (Rural).
18. The existing truck repair and shop building is considered to be a pre-existing non-conforming use under Grant County Code. Truck and truck parts sales have occurred at his business in the past.
19. Pursuant to Grant County Code 23.04.100(d), expansion, modification, or intensification of a nonconforming use is allowable subject to a Conditional Use Permit provided that new nonconformities with the standards of the GCC are not created, the proposed expansion complies with the requirements of the GCC to the maximum extent feasible, the proposed expansion shall not have an adverse impact on a critical area or cultural resource as designated in GCC 24.08, and a nonconforming use shall not be permitted to expand beyond the lot on which it is located.
20. The original garage building was built in 1996 and was occupied in 1997. The business was sold to Peterbilt in 2007. Mr. Pryor continues to be the owner of the land in which he is leasing to Peterbilt. On June 13, 2008, the Hearing Examiner approved Conditional Use Permit (File #08-5093) for the expansion of the existing garage building.
21. The project, at completion, will provide 10 parking spaces in addition to the 33 existing parking spaces which is consistent with the minimum required number of parking spaces for Automotive Service and Repair facilities. Automotive Service and Repair facilities require 2 parking stalls per bay or stall plus 1 per employee.
22. The project, at completion, will provide approximately 3,500 square feet of landscaping. Pursuant to Grant County Code §23.12.170 (c)(8)(B) staff has determined the amount of landscaping to be appropriate for the proposal.
23. Pursuant to GCC § 23.08.080(8), all Automotive Fuel, Service, and Repair Stations must have Visual Screening provided along all road frontages as specified in GCC § 23.12.180(a)(8). The application materials as submitted indicates Visual Screening along North Frontage Road E.
24. On May 19, 2016 Planning Department staff called the applicant to ask if there were plans for a sign on the proposed building. The applicant stated that there were no plans for a sign at this time.

25. Grant County issued a SEPA Determination of Non-Significance for the proposed truck part showroom and warehouse. This DNS was issued on May 19, 2016 (File P 16-0110).
26. The project is classified as an Automotive Service and Repair use, which is prohibited in the Rural Urban Reserve zone but is considered to be a pre-existing nonconforming use. The applicant has applied to construct a truck part showroom and vehicle storage warehouse on a 3.10 acre parcel.
27. Grant County Planning Staff reviewed and considered the application materials and the comments received for the proposal. Based on the proposed conditions of approval specified below, and the current design of the project, staff recommended approval of subject Conditional Use Permit.
28. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
 - 28.1 In 1995 when original shop was built the zoning allowed this use. In 2008 a Conditional Use Permit was approved and submitted allowing expansion and is still in use today.
 - 28.2 This use will not be contrary to the intent of the Grant County Code and the Comprehensive Plan. Grant County Code specifically allows expansions of preexisting nonconforming uses as a Conditional Use.
29. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
 - 29.1 The area to the east & west is consistence with this type of business, Commercial Tire, M-1 Tanks, Bud Clary Auto dealerships, Barry Used Cars Ect.
 - 29.2 The proposal appears to be appropriate in design, character, and appearance with the goals and policies for the applicable land use designation. The neighboring uses are commercial to the West of the site and industrial to the East of the site. Grant County Code 23.04.100 states that expansion, modification, or intensification of a nonconforming use is allowable subject to a Conditional Use Permit provided that: new nonconformities with the standards of the Grant County Code are not created, the proposed expansion complies with the requirements of the Grant County Code to the maximum extent feasible, the proposed expansion does not have an adverse impact on a critical area or cultural resource as designated in GCC 24.08, and the nonconforming use does not expand beyond the lot on which it is being created.
30. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
 - 30.1 No adverse impact on human or natural environment from this proposed use.
 - 30.2 The proposed use will not cause significant adverse impacts on the human or natural environment. Conditions of Approval are in place to ensure that the proposal, if approved, will meet all applicable performance and/or development standards.

31. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
 - 31.1 No adverse impact on human or natural environment from this proposed use.
 - 31.2 The cumulative impact of additional requests for like actions will not produce significant adverse effects to the environment, provided those similar requests are adequately conditioned, or have appropriate mitigation measures applied to them at the time of approval.
32. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
 - 32.1 New septic system for new building, existing water supply 30,000 gallons of fire water on site underground.
 - 32.2 This proposal is served by adequate facilities. The property is served by an existing well. The property is served by fire protection from Fire District #5. The property is also served by access from the County Road system. The proposed building will be served by a new septic system that must be in compliance with Health District requirements for the proposed use.
33. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
 - 33.1 No interference caused from buildings.
 - 33.2 The proposed building will not unreasonably interfere with allowable development or neighboring properties. Pursuant to GCC 23.08.080 Visual Screening will be provided along all road frontages as specified in GCC 23.12.180. The planned visual screening is shown on the site plan.
34. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
 - 34.1 No more pedestrian or vehicular traffic than what is already there.
 - 34.2 Pedestrian and vehicular traffic resulting from this project will not be hazardous to the existing traffic in the area. This proposal will produce little additional vehicular and pedestrian traffic once constructed.
35. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
 - 35.1 The impact in the number of people and traffic on the proposed expansion will not increase. A showroom and parts warehouse is what is being built. They will be moving personnel and parts from existing building to new building. Peterbilt requires this for

their dealership.

- 35.2 Structures approved by this Conditional Use Permit would comply with applicable performance standards for Automotive Fuel, Service, and Repair stations pursuant to GCC 23.08.080.
- 36. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
 - 36.1 No airports in area.
 - 36.2 This proposal does not include any activity or use that would be incompatible with an airport or airfield; there are not airfields or airports in the vicinity of the proposal.
- 37. The proposal conforms to the standards specified in GCC § 23.12
 - 37.1 There is plenty of parking, water and sewer approved by Health Department. My proposal conforms to the standards specified in GCC 23.12.
 - 37.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.
- 38. An open record public hearing after due legal notice was held on June 15, 2016.
- 39. The entire Planning Staff file was admitted into the record at the public hearing.
- 40. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
- 41. Appearing and testifying on behalf of the applicant was Steve Pryor. Mr. Pryor testified that he and his wife are owners of the land and were the applicants in this matter. Mr. Pryor testified that landscaping would be installed but they did not want to do this until the end of construction so as not to damage any of the newly installed landscaping. He also indicated that all septic systems would be improved by the County Health Department. Finally, Mr. Pryor testified that truck sales and accessory parts sales have occurred on the site in the past. They may continue in the future. Mr. Pryor also testified that all of the proposed Conditions of Approval were acceptable.
- 42. No member of the public appeared at the hearing.
- 43. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

- 1. The Hearing Examiner has been granted authority to render this decision.
- 2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.

3. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
4. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P 16-0109 is hereby **APPROVED** subject to the following Conditions of Approval.

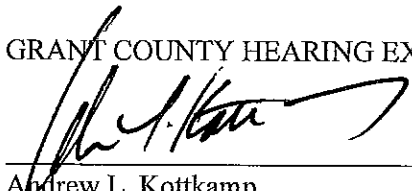
IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The following are suggested conditions that may be imposed on the project by the Grant County Hearing Examiner:
 - 2.1 The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Department, including but not limited to:
 - 2.1.1 Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.08, Performance and Use Standards.
 - 2.1.2 Applicant shall comply with any/all applicable requirements found in Grant County Code Chapter 23.12, Development Standards.
 - 2.1.3 Development shall comply with GCC 23.12.190, Lighting Standards, including but not limited to, the exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the project site. Exterior lighting shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting shall be appropriate in scale, intensity, and height. Any lighting installed in parking areas shall be direct cutoff design so that the source is not visible from adjacent properties.

- 2.1.4 Applicant shall complete landscaping and visual screening as per approved site plan.
 - 2.1.5 No outdoor storage is allowed pursuant to GCC 23.08.080(a)(5).
 - 2.1.6 Any vehicle stored for more than thirty (30) days shall be screened in accordance with GCC 23.12.180.
 - 2.1.7 No use shall be made of equipment or material which produces unreasonable vibration, noise, dust, smoke, odor, electrical interference to the detriment of adjoining property.
- 3. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including but not limited to:
 - 3.1 An approach permit shall be obtained for County Road access.
 - 4. The applicant shall comply with all requirements as deemed necessary by the Grant County Fire Marshal, including but not limited to:
 - 4.1 All real property development shall comply with all applicable local, state, and federal laws including but not limited to the establishment of water supply for fire suppression fire code requirements.
 - 5. The applicant shall comply with all requirements as deemed necessary by the Grant County Health District, including but not limited to:
 - 5.1 Current septic system is for 6 employees. Septic system must be in compliance for the proposed use. If 25 or more people have access to the water, then it must have Department of Health approval as a Group A water system.
 - 6. All landscaping shall be installed prior to issuance of an occupancy permit for the new building.

Dated this 21st day of June, 2016.

GRANT COUNTY HEARING EXAMINER


Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as “(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly

available” or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) “...the date the decision is entered into the public record.” Anyone considering an appeal of this decision should seek legal advice.